

REMARKS

Claims 1-22 are pending in the application. All of the claims stand rejected by the current office action. Claim 12 has been amended for clarity and not for the purpose of limiting the scope of the claim. Assignee traverses the instant claim rejections.

Procedural History

This amendment is in response to a non-final office action sent after a pre-appeal reopening of prosecution. The pre-appeal request argued that the rejections of independent claims 1 and 12 were clearly erroneous because the cited references fail to disclose deleting confidential information when the proximity detector in a mobile device detects that the mobile device is stored in the mobile device holder. Because the final office action was clearly erroneous in its rejection of the claims, prosecution was reopened, and the outstanding office action was issued.

Claim Rejections – 35 U.S.C. § 103(a)

On page 2 of the office action, claims 1-8 and 10-15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hocker (U.S. Patent No. 5,930,368) in view of Dinescu (EP 1,286,267). It is respectfully submitted that these rejections are clearly erroneous for similar reasons as the previous rejection that was successfully appealed.

Claim 1 recites a system for activating one or more security functions of a mobile device that includes a mobile device holder and a mobile device containing a proximity detector. The proximity detector is configured to detect that the mobile device is stored in the mobile device holder and to delete confidential information from a memory of the mobile device when the proximity detector detects that the mobile device is stored in the mobile device holder.

Maintaining security of confidential information is of a highest importance. The use of mobile devices may complicate this security maintenance as described in paragraph [0020] of the current application:

[0020] When confidential information is stored on or received at a mobile device, however, maintaining access control can be more difficult, especially when an authorized user of the mobile device loses physical control of the mobile device. As long as the mobile device is in the possession of the authorized user, the user has direct control over displaying, editing, transmitting, or other processing of any confidential information. In the event that the mobile device becomes accessible to an unauthorized party, the user can no longer restrict access to information stored on the mobile device or functions or services supported on the mobile device.

To help mitigate these access control difficulties, the system of claim 1 deletes confidential information from the mobile device when the device is stored in a holster or other mobile device holder.

The cited references fail to teach or suggest the deletion of confidential information from a memory of a mobile device when the mobile device's proximity detector detects that the mobile device is stored in the mobile device holder as required by claim 1. The last sentence of page 2 of the office action correctly admits that Hocker, the primary reference in the successfully appealed final office action, does not teach the deleting of confidential information from a memory of the mobile device. The first paragraph of page 3 of the office action states that Dinescu discloses deleting confidential information from a memory device in the abstract and paragraphs [0008] and [0018].

It is respectfully submitted that this rejection is deficient in exactly the same manner as the final office action that was overturned on pre-appeal for being clearly erroneous. The office action again fails to show a teaching or suggestion of deleting confidential information *when* the proximity detector detects that the mobile device is stored in the mobile device holder. Dinescu

discloses a memory management scheme that limits the number of erasing-cycles of non-volatile memory in a mobile device to delay the wearing out and failure of the non-volatile memory. *See* Dinescu, paragraph [0002], which states that “the number of erasing-cycles of these non-volatile memory devices is limited and there is a danger of failure over lifetime of a mobile phone.”

Cited paragraphs [0008], [0018], and the abstract of Dinescu describe flushing segments of memory in the memory management scheme to limit erasing cycles and to prolong the life on the non-volatile memory. There is nothing in these cited paragraphs that teaches or suggests deleting confidential information from a memory of the mobile device when the proximity detector detects that the mobile device is stored in the mobile device holder. It is clear from the language of claim 1, and has been established by the pre-appeal panel, that the references must teach or suggest a system where confidential information is deleted from a memory of the mobile device when the proximity detector detects that the mobile device is stored in the mobile device holder. Because the combination of Hocker and Dinescu fails to make this showing in the same way Hocker and Muratov failed to make the required showing in the overturned final rejection, it is respectfully submitted that the rejection of claim 1 is improper, and it is respectfully requested that the rejection be withdrawn.

Independent claim 12 contains similar features as claim 1 and was rejected under the same reasoning as claim 1. Because this reasoning is clearly erroneous in that the cited art fails to teach or suggest deleting confidential information from a memory of the mobile device when the mobile device is stored in the holder, as required by claim 12, it is respectfully requested that the rejection of claim 12 be withdrawn for similar reasoning as offered for claim 1.

The combination of Hocker and Dinescu is also improper because of a failure to clearly and completely articulate a rationale for combining the references. This issue was also argued in the pre-appeal. Astonishingly, the current office action repeats the exact same reason for combining Hocker and Dinescu as was given for combining Hocker and Muratov, “The motivation for doing so would have been to provide additional security functions to maintain security of data/information stored on the mobile device.”

This single statement is exactly the type of “mere conclusory statement” that the Supreme Court warned about in the *KSR* decision. In *KSR*, the Supreme Court stated that “[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” (*KSR Int’l Co. v. Teleflex Inc.*, 82 USPQ2d at 1396). This principle has now been incorporated into MPEP § 2141, which says “[t]he key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious.” Here, there is no “articulated reasoning” or “rational underpinning” to support the combination of Hocker and Dinescu other than the mere conclusion that it would “provide additional security functions.” Certainly this is insufficient justification to support the hindsight reconstruction of the applicants claims based on the selective teachings of these references. For this additional reason the obviousness rejection of claims 1 and 12 cannot stand.

Assignee at this time has not provided arguments in support of the patentability of certain dependent claims. It is respectfully submitted that because the independent claims are now in condition for allowance, the dependent claims which depend directly therefrom are also in condition for allowance. However, assignee reserves the right to argue the patentability of


certain of the dependent claims in the instant application at a future time, should that become necessary.

CONCLUSION

For the foregoing reasons, assignee respectfully submits that the pending claims are allowable. Therefore, the examiner is respectfully requested to pass this case to issue.

Respectfully submitted,

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